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NOTES OF CASES.

Liability of Stock Brokers to Bank for Theft of Officers—Supreme Court of Louisiana, April 26, 1909—Rehearing Denied June 7, 1909.—When money transferred to an honest taker has been obtained through a felony by the one transferring it, the honest taker, who receives it without knowledge of the felony and in due course of business, acquires good title to it as against the one from whom it was stolen. Bad faith will alone defeat the right of the taker. Mere ground of suspicion, or defect of title, or knowledge of circumstances which would create suspicion in the mind of a prudent man, or gross negligence on the part of the taker, will not defeat her title. Bad faith alone will defeat the right of the taker without knowledge.

The test is honesty and good faith, not diligence. 69 Cent. Law Journal, p. 341, 49 Southern 593.

Although this decision was published in a previous number, yet as it has been the subject of so much comment, we have decided to insert it again together with the criticisms. The prevailing opinion is that it is wrong. In the Cent. Law Journal, which contains a learned and exhaustive note, it is said:

"The principal case seems far afield in holding that the money paid defendants by the paying teller was received 'in due course of business.' Money is only received in due course of business when it is received from one having the apparent right to dispose of it in the manner it is usually disposed of. The teller had the right to dispose of the bank's money in the bank's business, or presumptively in the bank's business. It was distinctly stated by the teller in the principal case that this payment was not the bank's business and this consideration is absolutely unnoticed in the court's opinion, although it is distinctly conceded that money paid over the bank's counter is supposed to be the bank's money."

"It certainly seems to be a 'circumstance of grave suspicion' for a minor officer of a bank to deliver to another the funds of a bank, in such an irregular manner and outside of all apparent scope of his duties."

The *Columbia Law Review*, in an annotation to this case said: "The only authority relied upon in the principal case, *Merchants' Loan & Trust Co. v. Lampson*, 90 Ill. App. 18, seems distinguishable on its facts, since in that case it did not appear that any part of the transaction took place within the bank."

Prohibition as Defense to Action for Rent of Liquor Store.—In the December number we published an English decision under Notes of Cases, p. 647, holding that an action for rent was not defeated